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A LIBEL ACTION.

One of the cases before the Bench at the Police Court this morning was that in which Samuel Lister, of South Dunedin, was charged on the information of John Henry Hosking for that, on or about the 26th of July, 1890, he did unlawfully, wickedly, and maliciously write and publish and cause and procure to be written and published a false, scandalous, and defamatory libel of and concerning Henry Francis Dillon Bell, of Wellington, barrister at law, in an article appearing in the 'Otago Workman.'

Sir Robert Stout appeared on behalf of informant, and Mr J. F. M. Fraser for defendant.

Sir R. Stout said that he should not make any opening at length, because all the Bench had to be assured of was that *prima facie* a libel had been printed. As to the libel, there was no doubt whatever that a very gross one had been published concerning Mr Bell, also as regarded the Agent-General and the Premier. The information, he might explain, had been laid by Mr Hosking so that Mr Bell might not have to come down from Wellington to do it, and to allow him to get away again.

Mr Fraser: It was so arranged by consent.

Sir R. Stout said that the libel was contained in an article appearing in the 'Otago Workman' of July 26, a copy of which was sent by a friend of Mr Bell. That was the first copy of the paper Mr Bell had seen, and, he (Sir R. Stout) believed, the last. The article was headed "The Conspirators Unmasked," and it charged Mr Bell, with others, of conspiring, as Crown Prosecutor, to commit a criminal offence, and attributed to him conduct which would be a disgrace to a man in any position, and doubly disgraceful to one in the position of Crown Prosecutor.

The article, as put in by Sir R. Stout (Mr Fraser consenting that it should be taken as read), is as follows:—

THE CONSPIRATORS UNMASKED.

We are now in possession of the true history of the appointment of Judge Edwards, and the facts (as disclosed to us from a reliable source) reveal one of the basest conspiracies that ever disgraced the politics of any country. We were hardly prepared for such extraordinary infamous conduct from men occupying the highest and most distinguished offices in the country; but politics in this colony have ever been an impure trade, and the inevitable conclusion is that nothing but the dread of exposure and the terror of public opinion are effectual in keeping within decent limits the class of men who have got the country in their grasp. Yet one would think, and we admit there is some justification for disbelievers for doing so, that Sir Harry Atkinson, with his long and distinguished record of services to the country, would be the last to ally himself with a gang of intriguing lawyers, and endeavor to promote his own individual advancement at the sacrifice of his personal honor and reputation. As for the mere illegality or the unconstitutional offence involved in the appointment of Judge Edwards, we pay but little attention to that. The committal of an illegal or an unconstitutional action by a New Zealand Government is not such a marvellously rare occurrence as to necessitate either so prolonged a howl or so protracted a controversy among the virtuous politicians in the House. The whole history of New Zealand legislation is too plentifully strewn with blunders and too grossly laden with bad and vicious precedents to allow of the commission of another one more or less to throw the country into convulsions or seriously disgust the public mind. But the matter assumes quite another aspect when the head of the Government is found to be the central figure in a disgraceful compact, a trading away the most exalted positions in the country, and on conditions, too, that one can hardly specify without a feeling of humiliation and anger. The chief actors in this conspiracy—for by no other name can it be called—are, so far as our information leads us, Sir Harry Atkinson; Sir F. D. Bell, our Agent-General in London; his son, Mr H. Bell, Crown Prosecutor; and Mr Edwards, now Judge Edwards. These are the men, and the terms of the covenant were that Sir F. D. Bell was to take the Controller-Generalship; the Premier, as the price of his assistance, was thus to be allowed an opportunity of stepping into the vacant position; and Mr Edwards was to obtain the Judgeship, provided he handed over to Mr H. Bell, Crown Prosecutor, the lucrative agencies which he held. This, briefly, is the origin and these the attendant circumstances of the appointment which has been so keenly debated, and which has naturally enough given rise to so much surmise and speculation. How far this discreditable transaction has succeeded the public are now aware. That the success of the conspirators has been only of a partial nature is entirely owing to the fact that the Controller's salary could not be made equal to that of the Agent-General, and was, therefore, not regarded by the latter as a fair equivalent.

In making these statements we are entirely free from political or party animus. We are no partisans, no admirers of any particular side of the House, and regard with contempt the wretched thing called "party government" now being played, on one pretext or another, at the expense of the country. In leaving the controversial side of the question to the politicians, and approaching the real pith of the subject, we are therefore, we hope, not likely to be regarded as acting otherwise than in the public interest, free from party or political prejudices. If Sir Harry Atkinson (which we can hardly credit) has acted in the manner indicated by us he has forfeited all right to any further consideration at the hands of the country, and deserves no further indulgence from any party in the House. And it need hardly be said that a Judge who has made such a sacrifice of honor and self-respect is not the kind of man to whom we would willingly entrust the lives or the liberties of colonists. Equally discreditable is the connection of the two Bells (father and son) with the disgraceful compact. Neither father nor son should be allowed to hold their present positions until they have taken effective steps to disprove their connection with the conspiracy. Nobody nowadays is so guileless as to believe that a man of Sir Harry Atkinson's astuteness would be likely to make such an appointment as that of Judge Edwards unless, indeed, there was some very strong motive at bottom. Less likely was he to do so in his present condition, when everything that might furnish a pretext for hostility or attack should of necessity be avoided. The necessity for a searching investigation was never more imperatively called for. The outraged honor of the country demands it; and more strongly still does the honor of the men on whom the infamy of the transaction rests. We hope, before the matter is allowed to rest, a parliamentary inquiry will be insisted on—not an inquiry of the kind that whitewashed the Roses in the Ida Prince case, as well as the Government for the part they played in that arbitrary business, but one composed of men who can be relied on to raise themselves for once above the level of party squabbles and render a valuable service to the country. We hope to see those whom we look to as the true representatives of the people rise to the occasion on this subject, and insist upon a rigid and exhaustive inquiry into the whole question. Those members who take this course will deserve well of their constituents and of the country.

Continuing, Sir Robert Stout said that of the libel itself there could be no doubt. He had put in as an exhibit the paper containing the article complained of. Anyone reading it would see that it referred to Mr Bell. To show that the prosecutor had no feeling in the matter he (Sir R. Stout) might mention that among the correspondence between Messrs Kenyon and Hosking and the defendant — which would also be put in — there was a letter dated the 3rd September from the firm referred to in which they wrote to Lister requiring to be furnished with the name of the writer of the article, and an assurance that the writer would be in the colony and available for process, in which case, if an apology were also made, Mr Bell would proceed against the writer and not against Lister. No response was made to that demand; consequently proceedings were taken. Learned counsel called the following evidence:—

Colin M'K. Gordon, Registrar of the Supreme Court, produced an affidavit of Samuel Lister lodged in the matter of the 'Otago Workman' on the 4th January, 1887.

Sir R. Stout then put in a copy of the 'Otago Workman' of date 26th July, 1890.

J. H. Hosking, solicitor, said that he had received instructions from F. H. D. Bell, barrister and Crown Prosecutor, of Wellington. Had read the article in the 'Workman' headed "The Conspirators Unmasked." Saw a reference there to Mr H. Bell, Crown Prosecutor. In witness's opinion that referred undoubtedly to Francis Henry Dillon Bell. Witness's firm took proceedings according to Mr Bell's instructions. Witness produced the correspondence between his firm and defendant, and the letters were put in.

David L. Hutton, printer, said that he was formerly in partnership with Lister and knew his writing. The signature to the affidavit of registration and the letter of 20th August to Messrs Kenyon and Hosking were in defendant's handwriting.

Francis Henry Dillon Bell: I am generally known as Henry Bell and sign my name "H. D. Bell." I am a barrister of the Supreme Court and Crown Solicitor in Wellington, and have acted as counsel for the Crown for some years. My father is Agent General for the colony. A friend of mine forwarded me a number of the 'Workman' of July 26, and on the day I received it, or the next day, I gave instructions to Messrs Kenyon and Hosking to act for me. I had never seen a copy of the paper before, and did not personally know Lister. The information has been laid at my request. There is not one word of truth in the article with respect to myself or my father, nor as affecting Sir Harry Atkinson so far as he is brought into relationship with myself or my father, nor as affecting Mr Justice Edwards so far as he is brought into relationship with myself or my father.

Adolph Goodmanson, a boy working at the Fernhill Club, was called to prove the purchase of a copy of the 'Workman,' bought at the South Dunedin Printing Works. He gave the paper he bought to Mr Bird.

Examined by the Bench, this witness said that he knew the paper produced was the one he bought, because it bore the same date.

E. C. E. Bird, manager of the Fernhill Club, said that last witness brought him two papers, which he (witness) gave to Mr Hosking. He presumed that the two papers produced were those which he gave to Mr Hosking.

J. H. Hosking was recalled to swear to the papers produced being those handed to him by Mr Bird.

That closed informant's case.

Mr Fraser said that in a case of this sort when it came before a magistrate prosecutor had merely to prove publication, and the magistrate had to decide for himself whether the written matter before him was in point of law a libel. Unless it was clearly not a libel, it was the magistrate's obvious duty to commit defendant for trial; and the fact that defendant had offered to make amends for any injury he might have done was not matter for that Court. Such being the case, he (Mr Fraser) did not propose to trouble the Court further, and would not call witnesses.

Defendant, who said that he reserved his defence, was then committed for trial. Bail was allowed—two sureties of L75 each, and defendant in L150. The bail was immediately found.

EDUCATION BOARD.

The ordinary monthly meeting of the Education Board was held this morning, and was attended by Messrs J. Macgregor (chairman), J. Green, J. W. Jago, H. Clark, and Drs Hislop and Stenhouse.

RESIGNATIONS AND APPOINTMENTS.

Resignations. — Harriet Darton, mistress, Kakanui, and Agnes Macdonald, head-teacher, Adams Flat.

Appointments.—Charles G. Graham, headmaster, Waihemo, *vice* Bremner, promoted; Elizabeth N. Gunn, head-teacher, Herbert, *vice* Graham, transferred; and Mary Renfrew, first assistant, Ravensbourne, *vice* Sherriff, promoted.

WHITCOMBE AND TOMBS'S PUBLICATIONS.

Messrs Cohen and Adams attended as a deputation from the Dunedin and Suburban Schools' Conference, and asked the Board, with the object of preventing any possible friction between committees and teachers, to issue a general direction to teachers in regard to the use of "supplementary" reading books in Standards I. and II. This matter was considered in committee.

Mr John Common, writing from Teaneraki, said that at a meeting of the School Committee a resolution had been passed protesting against the use of Messrs Whitcombe and Tombs's publications while the firm maintained its present attitude on the labor question.

Mr W. Singleton wrote that at Oamaru a meeting of about eighty householders in connection with the South District School had been held to discuss the use of Messrs Whitcombe and Tombs's books in the school. The following resolution had been carried almost unanimously in connection with the matter—"That none of Messrs Whitcombe and Tombs's books be used in the school pending a settlement of the dispute." A further resolution was also passed—"That the chairman be instructed to inform the Board of the resolution come to, and ask them to substitute another book for that of Messrs Whitcombe and Tombs."

The Board went into committee on the foregoing matters, as contained in the letters, and it was decided that they could not see their way to interfere.

The following letter, which speaks for itself, has been handed to us for publication:—

M. Cohen, Esq., Dunedin.

Sir,—Referring to the matter of the use of Messrs Whitcombe and Tombs's Southern Cross Readers in the schools in this district, brought under the notice of the Education Board to-day by yourself, as a deputation from the Dunedin and Suburban Schools Committees' Conference, I have to inform you that the Education Board, after consideration of the matter, has instructed me to say that the Board's regulations regarding school books were made in August, 1888, long before there was any idea of the present difficulty arising.

It is not improbable that if the Southern Cross Reader series had been complete at the above-mentioned date the Board would have fixed upon this series as the main reading books, and Chambers's series as supplementary, for the following reasons:—

1. Intrinsically, the Southern Cross Readers may be regarded as equal in merit to the best of the Home series, and even superior, inasmuch as the bulk of the lessons are more suitable for colonial children, bearing, as they do, a more direct relation to life and its surroundings in our own land than do the lessons in "readers" prepared for Home children.

2. The Southern Cross Readers are compiled, printed, and bound in New Zealand, and, consequently, the general use of the books will tend to promote a valuable colonial industry. The preparation in the colony of school books has on several occasions been pressed on the consideration of the education authorities by public bodies.

A perusal of the Board's regulations of August, 1888, will show that the use of the Southern Cross Readers as supplementary reading books will be absolutely necessary only as regards Standards I. and II. on the coming into operation of the Board's resolution of August, 1890, because in Standard III. and upwards the history text books can be used. But even in regard to Standards I. and II. no present difficulty need arise even in the case of schools where a feeling exists on the part of parents against the use of the Southern Cross Readers, because the examination of classes in a second reading book will not be imperative until next season's examinations begin, about six months hence. By that time it is to be hoped reasons for the existing feeling against the books will be wholly removed.

This Board, as a public Board charged with the administration of an Act of the colonial Legislature, feels bound to maintain a position of strict neutrality in regard to the matter at issue, and it is satisfactory to find for the reasons above given that there exists no necessity for the Board in any way modifying its regulations of August, 1888, and that no pupil need be placed under any disadvantage, nor any teacher in a position of difficulty or embarrassment, by the Board's regulations in connection with the present year's examinations.—I have, etc.,

P. G. Pryde,
Secretary Otago Education Board.

NOTICE OF MOTION.

Mr Jago gave notice that he would move at next meeting that the present system of paying bonuses be abolished at the end of the present year, and that the money now paid in bonuses be applied to a readjustment of the teachers' salaries.

ACCOUNTS.

Accounts amounting to L7,356 14s 2d were passed for payment.

CHARITABLE AID BOARD.

A meeting of the Charitable Aid Board Committee was held this afternoon, and was attended by Messrs Robin (chairman), Snow, Monson, and Clark.

REQUISITIONS.

The amount passed for payment in connection with the Benevolent Institution was L310 12s 1d, there being an interim payment of L600. It was explained the largeness of the amount was due to the smallness of the receipts.

The amount passed for the requisition of St. Mary's Industrial School was L71 15s, a little under the estimate.

It was decided to pass L300 to the Industrial School, Caversham, that being their claim to 30th June.

The Female Refuge requisition for the month was L24, which was passed; a regret as to the falling off of proceeds from washing being forwarded by the ladies connected with the institution.

AUSTRALASIAN CHARITABLE CONFERENCE.

Dr Macgregor wrote sending extracts and reports regarding the desirability of holding an Australasian conference on charity, on the lines of those that had proved so useful in America. He had been asked by Mr Goldstein to act as hon. sec. for the purpose of endeavoring to have this colony represented at the conference; and it was in that capacity that he now wrote. He would be glad to hear at the earliest convenience what steps the Board propose to take in the matter.

In connection with this matter, the Chairman said it referred to a charitable conference to be held in Melbourne. Dr Macgregor wanted to know what likelihood there was of their sending someone to Melbourne to this conference, which met in November. He pointed out that Mr Solomon was going to represent the Benevolent Institution Trustees, and this he considered would be enough to represent the place.

Mr Green pointed out that if they appointed Mr Solomon it was possible that he might exercise two votes. It appeared to him that Dr Macgregor only asked their opinion as to the colony being represented, and that gentleman would not represent the colony by any means. Mr Solomon had said he would be in Melbourne about the time of the Conference, and would be happy to represent them.

The Chairman thought, by the tone of the doctor's letter, that he would be willing to represent them.

Mr Green said he had no objection to asking Mr Solomon to represent the Board.

Mr Snow thought the better plan would be to appoint Mr Solomon as he would be present in Melbourne at the time, and would move that he be asked to represent them.

This was seconded by Mr Green, and carried.

ARREARS.

The Clerk of the Portobello Road Board wrote, in reply to the Board's letter concerning arrears of contributions, that he was directed to say that the Road Board were under the impression that the Charitable Aid Board preferred obtaining their contributions direct through Government.

It was resolved that the letter be received, and an explanation be made regretting the Portobello Board had taken the view expressed in their letters. The Charitable Board assured them that they preferred to receive the contributions direct.

HOSPITAL BOARD.

A meeting of the Hospital Trustees, attended by the same gentlemen, was then held, when a requisition for the hospital amounting to L335 16s 6d was passed for payment. The Chairman remarked that this was about L100 more than the monthly estimate, but that the hospital was within the six-monthly estimate.

Modern Society.—He (making a party call): "I think party calls are great bores; don't you?" She (receiving): "Yes, indeed."

A libel action

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